

ORIGINAL NUMBER
350

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

ROBERT W. ALVORD
ALBERT H. GREENE
CARL C. DAVIS*
CHARLES T. KAPPLER
JOHN H. DOYLE
MILTON C. GRACE*
GEORGE JOHN KETO**
RICHARD N. BAGENSTOS

* NOT A MEMBER OF D.C. BAR
** ALSO A MEMBER OF OHIO BAR

LAW OFFICES
ALVORD AND ALVORD
200 WORLD CENTER BUILDING
918 SIXTEENTH STREET, N.W.
WASHINGTON, D.C.
20006

OF COUNSEL
JESS LARSON
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CABLE ADDRESS
"ALVORD"

12427

RECORDATION NO. _____ Filed 1425

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November 20, 1980

INTERSTATE COMMERCE COMMISSION

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No. 1

Date. 11-20-80

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ICC Washington, D. C.

Agatha L. Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Madam:

Enclosed for recordation under the provisions of 49 U.S.C. §11303(a) are 1) seven original copies of an Equipment Lease dated as of November 18, 1980; and 2) five original copies of a Collateral Assignment dated as of November 18, 1980 ("Documents").

The names and addresses of the parties to the Documents are as follows:

LESSOR/ASSIGNEE: C I Transportation Leasing Corporation
231 South LaSalle Street
Chicago, Illinois 60693

LESSEE/ASSIGNOR: Brae Corporation
Three Embarcadero Center
San Francisco, California 94111

A general description of the railroad equipment covered by the Documents is:

One hundred (100) 70-ton 50'6" boxcars, AAR Mechanical Designation XP, bearing reporting marks and numbers POVA 35001 through POVA 35100, both inclusive.

Please return the copies of the Documents not needed for recordation purposes of Cary J. Malkin, Esq., Mayer, Brown & Platt, 231 South LaSalle Street, Chicago, Illinois 60604 or to the bearer hereof.

C. T. Kappler
Quality

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FEE BRANCH

Agatha L. Mergenovich, Secretary
November 20, 1980
Page Two

Also enclosed is a check in the amount of \$100.00
payable to the order to the Interstate Commerce Commission
covering the required fees.

Very truly yours,

ALVORD AND ALVORD
Agent for CI Transportation
Leasing Corporation

By Charles T. Kappler
Charles T. Kappler

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INTERSTATE COMMERCE COMMISSION

COLLATERAL ASSIGNMENT, dated as of November 18, 1980 (herein, as from time to time hereafter amended, called "Collateral Assignment"), by and between BRAE CORPORATION, a Delaware corporation (herein called "Assignor"), and CI TRANSPORTATION LEASING CORPORATION, a Delaware corporation (herein called "Assignee").

W I T N E S S E T H:

WHEREAS, Assignor and Assignee have entered into that certain Equipment Lease, dated as of the date hereof (herein, as from time to time thereafter amended, the "Lease"); and

WHEREAS, the Assignor and PEND OREILLE VALLEY RAILROAD, INC., a Washington corporation (herein called "Sublessee"), have entered into that certain Lease Agreement, dated as of November 10, 1979 (herein, as from time to time thereafter amended prior to the date of execution and delivery hereof (including that certain First Amendment thereto dated as of September 29, 1980) called the "Sublease") covering the Equipment described in Schedule I hereto (herein called the "Equipment"); and

WHEREAS, in order to provide security for obligations of the Assignor under the Lease, the Assignor has agreed to assign for security purposes its rights in, to and under the Sublease to the Assignee; and

WHEREAS, the execution, delivery and performance of this Collateral Assignment has been duly authorized by the Assignor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Section 13 hereof, the Assignor hereby assigns, transfers and sets over unto the Assignee as collateral security for the payment and performance of the Assignor's obligations under the Lease, all the Assignor's right, title and interest as lessor under the Sublease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Assignor from the Sublessee under or pursuant to the provisions of the Sublease, whether as rent, casualty payment, indemnity, liquidated damages or otherwise, and whether or not earned by performance (such moneys being hereinafter called the "Payments"), and the right to make all waivers and

agreements, to give all notices, consents and releases, to take all action upon the happening of an event of default specified in the Sublease, and to do any and all other things whatsoever which the Assignor, as lessor under the Sublease, is or may become entitled to do under the Sublease. In furtherance of the foregoing assignment, the Assignor hereby irrevocably authorizes and empowers the Assignee in its own name, or the name of its nominee, or in the name of the Assignor or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Assignor is or may become entitled under the Sublease, and to enforce compliance by the Sublessee with all the terms and provisions thereof.

2. This Collateral Assignment is executed only as security and, therefore, the execution and delivery of this Collateral Assignment shall not subject the Assignee (whether before or after the occurrence of an Event of Default under the Lease) to, or transfer, or pass, or in any way affect or modify the liability of the Assignor (whether before or after the occurrence of an Event of Default under the Lease) under, the Lease, it being understood and agreed that notwithstanding this Collateral Assignment or any subsequent assignment, all obligations of the Assignor to the Sublessee shall be and remain enforceable by the Sublessee, its successors and assigns, against, and only against, the Assignor or persons other than the Assignee.

3. To protect the security afforded by this Collateral Assignment the Assignor agrees as follows:

(a) The Assignor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Sublease provides are to be performed by the Assignor; and, without the written consent of the Assignee, the Assignor will not enter into any amendment to or modification or waiver of, the Sublease which would materially adversely affect the interest of the Assignee, it being understood that if the Assignee shall be requested in writing by the Assignor, except during the continuance of an Event of Default under the Lease, to consent to any such amendment, modification or waiver, the failure of the Assignee to respond either positively or negatively to such request within 15 days shall be deemed a consent thereto; provided, however, that in no event shall the Assignor, except during the continuance of an Event of Default under the Lease, be required to obtain the consent of the Assignee in order (i) to amend, modify or waive any provision of the Sublease in any manner which is not materially adverse to the interests of the Assignee or (ii) to terminate the Sublease with respect to some or all of the Equipment pursuant to the terms thereof.

(b) At the Assignor's sole cost and expense, the Assignor will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of the Assignor under the Sublease.

(c) Should the Assignor fail to make any payment or to do any act which this Collateral Assignment requires the Assignor to make or do, then the Assignee, but without obligations so to do, after first making written demand upon the Assignor and affording the Assignor a reasonable period of time within which to make such payment or do such act, but without releasing the Assignor from any obligation hereunder, may make or do the same in such manner and to such extent as the Assignee may deem necessary to protect the security hereof, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Assignee, and also the right to perform and discharge each and every obligation, covenant and agreement of the Assignor contained in the Sublease; and in exercising any such powers, the Assignee may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Assignor will reimburse the Assignee for such costs, expenses and fees with interest at 16% per annum.

4. The Assignor does hereby constitute the Assignee the Assignor's true and lawful attorney, irrevocably, with full power (in the name of the Assignor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Sublease to which the Assignor is or may become entitled, to enforce compliance by the Sublessee all the terms and provisions of the Sublease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Assignee may seem to be necessary or advisable in the premises.

5. The Assignor represents and warrants that (a) the execution and delivery by the Assignor of the Sublease, this Collateral Assignment and the Lease have each been duly authorized, and the Sublease, this Collateral Assignment and the Lease are and will remain the valid and binding obligations of the Assignor in accordance with their terms, (b) the Assignor has not executed any other assignment of the Sublease and the Assignee's right to receive all Payments under the Sublease is and will continue to be free and clear of any and all liens, agreements, security interests or other encumbrances except

those created by the Assignee, (c) notwithstanding this Collateral Assignment, the Assignor will conform and comply with each and all of the covenants and conditions in the Sublease and the Lease set forth to be complied with by it, (d) to the knowledge of the Assignor, it has performed all obligations on its part to be performed under the Sublease and the Lease on or prior to the date hereof and (e) the Sublease and the Lease are in full force and effect and have not been canceled and to the knowledge of the Assignor there has not occurred on or prior to the date hereof any event of default under the Sublease or any Default or Event of Default under the Lease.

6. If an Event of Default under the Lease shall occur and be continuing (but subject to the rights of the Sublessee if no event of default under the Sublease has occurred and is continuing), the Assignee (i) may, at its option without notice and without regard to the adequacy of the security of the sums hereby secured, either in person or by an agent with or without bringing any action or proceeding or by a receiver or other custodian to be appointed by a court, take possession of and operate the Equipment or any part thereof and do any acts which the Assignee deems proper to protect the security hereof, either with or without taking possession of the Equipment, and (ii) may exercise any other rights or remedies which are available to it by statute, at law or in equity. The taking possession of the Equipment and the taking of any action permitted as aforesaid shall not cure or waive any Event of Default under the Lease or waive, modify or affect any default hereunder or under the Sublease or invalidate any act done hereunder. The remedies herein set forth or referred to shall be cumulative and in addition to every other remedy conferred upon Assignee by any other agreement or otherwise. No failure or delay on the part of Assignee in the exercise of any right or remedy hereunder or under any other agreement or otherwise shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

7. The Assignor covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee, as assignee of the Assignor's right, title and interest under the Sublease, for any installment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Sublease, the Assignor will save, indemnify and keep the Assignee harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Sublessee, or its successors, arising out of a breach by the Assignor of any obligation under the Sublease or arising out of any other indebtedness or liability at any time owing to the Sublessee, or its successors, from the Assignor. Any and all such obligations of the Assignor

shall be and remain enforceable against and only against the Assignor and shall not be enforceable against the Assignee or any parties in whom any of the rights of the Assignor under the Sublease shall vest by reason of successive assignments or transfers. All of the indemnities and agreements of the Assignor contained in this Section 7 shall survive and continue in full force and effect notwithstanding termination hereof or of the Lease or the Sublease or of any or all of the Equipment thereunder with respect to matters arising prior to or in connection with the termination hereof.

8. The Assignor will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, re-register, re-record, or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Assignee in order to confirm or further assure the interests of the Assignee hereunder.

9. The Assignee may assign all or any of the rights assigned to it hereby or arising under the Sublease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder. The Assignee agrees to give written notice to Assignor of any such assignment.

10. This Collateral Assignment shall be governed by the internal laws of the State of Illinois, but the parties shall be entitled to all rights conferred by Section 11303 of the Interstate Commerce Act.

11. All notices in connection herewith and all payments hereunder shall be promptly delivered or made as follows: (i) if to the Assignee, at 231 South LaSalle Street, Chicago, Illinois 60693; (ii) if to the Assignor, at Three Embarcadero Center, San Francisco, California 94111, Attention: Vice President - Finance; or (iii) if to either party, at such other address as it may, by written notice to the other, designate as its address for purposes of notice hereunder.

12. The Assignor will promptly cause this Collateral Assignment to be filed and recorded in accordance with Section 11303 of the Interstate Commerce Act.

13. Anything herein or in the Lease or in the Sublease contained to the contrary notwithstanding, the Assignee for itself and its successors and assigns hereby agrees with the Assignor and its successors and assigns that the Assignee will

not, so long as no Event of Default under the Lease has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Assignor to the Assignee by this Collateral Assignment, except for the right to consent to material amendments modifications and waivers in accordance with Section 3(a) hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Collateral Assignment to be duly executed as of the date first above written.

BRAE CORPORATION, as Assignor

By Lawrence W. Busio
Its Vice President

[CORPORATE SEAL]

Attest:

Michael T. Everett
Its Assistant Secretary

CI TRANSPORTATION LEASING
CORPORATION, as Assignee

By [Signature]
Its VP

[CORPORATE SEAL]

Attest:

Arthur M. Hale
Its Assistant Secretary

STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK)

On this 19th day of November, 1980, before me personally appeared LAWRENCE W. BRISCOE, to me personally known, who, being by me duly sworn, says that he is a Vice President of BRAE CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Kathryn A. Hermolen
Notary Public

[NOTARIAL SEAL]

My Commission Expires: My Commission Expires December 28th, 1982

STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK)

On this 19th day of November, 1980, before me personally appeared DAN T. SURATT, to be personally known, who, being by me duly sworn, says that he is a Vice President of CI TRANSPORTATION LEASING CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Kathryn A. Hermolen
Notary Public

[NOTARIAL SEAL]

My Commission Expires: My Commission Expires December 28th, 1982

SCHEDULE I
TO COLLATERAL ASSIGNMENT

DESCRIPTION OF EQUIPMENT

<u>Type of Equipment</u>	<u>Quantity</u>	<u>Identification Numbers</u>
70-Ton 50'6" Box Cars AAR Mechanical Designation XP	100	POVA 35001 through 35100, both inclusive